IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1107/2005

MOHIT MOORTI ART Vs. STATE OF RAJASTHAN & ANR.

DATE: 16.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Rajesh Goswami for the accused-petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.
Mr. Ratan Lal Verma and
Mr. Manish Kumawat for the complainant-respondent.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioner against the judgment dated 29.10.2005 passed by the Special Judge (Sati Niwaran) Rajasthan & Additional Sessions Judge, Jaipur in Criminal Appeal No. 28/2005, whereby the Appellate Court while dismissing the appeal filed by the accused-petitioner, upheld the judgment dated 05.02.2005 passed by the Additional Chief Judicial Magistrate No.8, Jaipur City, Jaipur in Criminal Case No. 317/03 (451/2000), by which the accused-petitioner has been convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and a fine of Rs.

3,00,000/-, in default of payment of fine to further undergo simple imprisonment for one month.

Learned counsels for the respective parties submit that both the parties have entered into a compromise outside the Court and the same was drawn on 31.01.2007 and is placed on record. Both the parties are present in person before this Court and requested that as per the settlement drawn between the parties, the matter may be disposed of.

In lieu of compromise, Rs. 1,11,000/- have been paid to the respondent-complaint in cash and Rs. 1,00,000/- has already been deposited with the trial Court which may be given to respondent Smt. Basanti Devi W/o late Shri Durga Singh. With the request to order to pay the amount of Rs. 1,00,000/- which is deposited with the trial Court, the respondent-complainant Smt. Basanti Devi does not want to pursue the present matter against the accused-petitioner.

Learned counsel for the accused-petitioner also placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of **Anil Kumar Haritwal And Another Vs. Alka Gupta And Another, reported in (2004)4 SCC 366,** wherein dealing with Section 138 of the Negotiable Instruments Act, 1881 it

was held that where the dispute settled between the parties, conviction and sentence of the defaulter set-aside, in view of the fact that Section 147 of the Negotiable Instruments Act allows compounding of the offence.

Having heard rival submissions of the respective parties and considering the ratio decided by the Hon'ble Supreme Court in the aforementioned case of **Anil Kumar Haritwal & Another (supra),** since the offence is compoundable under Section 147 of the Negotiable Instruments Act and the dispute is settled between the parties through compromise and written compromise deed is also placed on record as indicated herein above, therefore, the conviction and sentence of the accused-petitioner as awarded by the Courts below is herewith set-aside under Section 147 of the Negotiable Instruments Act.

Accordingly, the revision petition stands disposed of as indicated herein above.

It is pointed out at this stage by learned counsel Mr. Manish Kumawat that earlier he was the counsel on behalf of the complainant-respondent Smt. Basanti Devi and without obtaining no-objection from him, Mr. Ratan Lal Verma filed 'Vakalatnama' on behalf

of the complainant-respondent.

In response to the allegations levelled by learned counsel Mr. Kumawat, learned counsel Mr. Verma submits that his client has already sent a registered letter to the learned counsel Mr. Kumawat to the effect that she does not want to continue him as lawyer on behalf of her and considering this fact learned counsel Mr. Verma do not think it proper to obtain any no-objection from learned counsel Mr. Kumawat.

It is for the Advocates concerned if any dispute between the counsels still survive and they can file complaint to this effect before the Bar Council of Rajasthan and it is for the Bar Council of Rajasthan to consider the same.

(K.S. RATHORE),J.

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